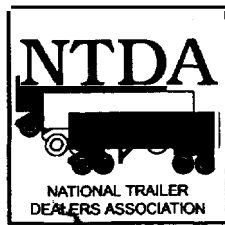


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National Trailer Dealers Association
37400 Hills Tech Drive, Farmington Hills, MI 48331-3414
1-800-800-4552, Fax (248) 489-8590

info@ntda.org • www.ntda.org

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November 1, 2002

Ms. Jacqueline Glassman
Chief Counsel
National Highway Traffic Safety Administration
400 Seventh Street, SW
Washington, DC, 20590

cc: Docket Management
Room PL-401
400 Seventh Street, SW
Washington, DC, 20590

Re: Docket No. NHTSA 2001-8677 - 531

EXECUTIVE SECRETARIAT
2002 NOV -4 P 4:51
NATIONAL HIGHWAY
TRAFFIC SAFETY ADM.

Petition for Rulemaking

The National Trailer Dealers Association (NTDA) is submitting this petition for rulemaking to amend the final rule published by the National Highway Traffic Safety Administration in the July 10, 2002 *Federal Register* on "Reporting of Information and Documents About Potential Defects Retention of Records That Could Indicate Defects."

The NTDA requests that NHTSA reconsider the small volume manufacturer exclusion and increase it from 500 total vehicles to 2,500 per model with a manufacturer total of 10,000, as is currently codified in the temporary exemption provisions of 49 CFR Part 555. This change would significantly reduce the burden on small businesses in the motor vehicle industry while preserving statistically significant information for the Agency.

If NHTSA chooses not to consider a combination of "per model" and total production, we ask that the Agency look to other existing NHTSA regulations and consider an annual total of 5,000 vehicles for the small business exclusion, as discussed below.

The NTDA

The NTDA is a national trade association that currently represents over 300 semi-trailer dealers and manufacturers throughout the U.S. and Canada. NTDA member companies include independent licensed dealers who are engaged in the business of buying and selling new and used semi-trailers, semi-trailer manufacturers — Vans, Reefers, Flats, Tanks, Loggers, Lowboys, Hoppers, Grain, Hot Shots, Refuse, and Dumps; container and container chassis manufacturers; semi-trailer parts and accessories manufacturers and

suppliers; and semi-trailer renting and leasing companies along with other industry related firms. Most NTDA independent dealer members are small, local businesses.

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As the NTDA is primarily a dealer oriented organization it would initially seem that NHTSA's early warning reporting requirements would be of little concern. This is not the case.

The early warning reporting regulations require trailer manufacturers and other industry segments to collect information including warranty claims and field reports. The NTDA is concerned that the various requirements of the early warning reporting rule will result in new data collection efforts by the manufacturers that could overwhelm small, independent dealers.

Independent trailer dealers are not company stores, they generally sell trailers from several manufacturers. In order to comply with the regulations, each trailer manufacturer will need to create a process for collecting the warranty claim and field report data required. Presumably, each manufacturer will create a unique system. Independent trailer dealers will need to comply with each manufacturer's process in order to remain a dealer.

In fiscal 2001, the average independent trailer dealer had annual sales of less than \$8 million and average pre-tax earnings of 0.22%. Most independent trailer dealers are small local businesses and it is clear that they simply do not have the resources to comply with numerous data requests from multiple manufacturers.

Small Volume Manufacturers

The NTDA agrees with NHTSA's initial determination that small manufacturers should operate under different reporting regulations than multi-billion dollar manufacturers. Small volume manufacturers, by definition, build fewer vehicles or trailers and will have fewer, if any, incidents to report.

Small manufacturers have fewer resources with which to comply. Further down the retail chain, small, independent trailer dealers have even fewer resources with which to help the various manufacturers' trailers.

Small Manufacturer Size

NHTSA's final rule provides regulatory relief for manufacturers of less than 500 total vehicles or trailers. As this regulation is intended to identify defect trends, the NTDA feels it is important to recognize that in this instance, the total number of vehicles produced by a manufacturer may be less important than the vehicles produced per model. While the trailers built by a small number of large companies may be produced in significant runs of identical trailers, many smaller trailer manufacturers produce much lower volume, even one-off, production runs. Statistically, there is virtually no "early warning" value to the quarterly report of a specialty manufacturer, even if there happens to be anything to report. Similarly, the data provided by a company that produces 500 total vehicles, when that total represents a number of different models or configurations, is far less statistically significant than that from a company producing 500 identical vehicles or trailers.

Hence, the NTDA suggests that NHTSA consider both manufacturer and model totals. In its own regulations as it pertains to temporary exemptions from safety standards (49 CFR Part 555) both numbers are considered. This section limits the exemption to manufacturers of no more than 10,000 vehicle per year in total and no more than 2,500 vehicles for the actual exemption. In the case of this reporting requirement, the reduced reporting requirements could be limited to manufacturers of no more than 10,000 vehicles per year and 2,500 vehicles per model. This would reduce the burden on both NHTSA and the small business manufacturer while still allowing for any statistically valid data to be reported.

Again, if NHTSA chooses not to consider a combination of “per model” and total production, we alternatively request that the Agency look to other existing NHTSA regulations and consider an annual total of 5,000 vehicles for the small business exclusion.

NHTSA has recently defined Small Volume Manufacturers or Low Volume Manufacturers as manufacturers with a total volume of less than 5,000 vehicles per year in the advanced airbag regulations of FMVSS 208 in Section Sec. 585.3. NHTSA has also relied upon the 5,000 per year total in the new S7.6 of Part 590 — Tire Pressure Monitoring System Phase-In Reporting Requirements issued June 5, 2002.

Trailer Industry Totals

The National Association of Trailer Manufacturers, who represent manufacturers of trailers with a gross vehicle weight rating (GVWR) of less than 26,000 lbs. has stated that more than 50% of their 290 member companies produce over 500 trailers per year. The Truck Trailer Manufacturers Association, whose members typically manufacture larger trailers, estimates that at least 30 trailer manufacturers build 500 or more of the heavier GVWR trailers per year.

Conclusion

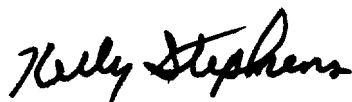
Section 30166(m)(4)(D) of the Transportation Recall Enhancement, Accountability, and Documentation Act (TREAD) requires that NHTSA’s final rule:

shall not impose requirements unduly burdensome to a manufacturer of a motor vehicle or motor vehicle equipment, taking into account the manufacturer’s cost of complying with such requirements and (NHTSA’s) ability to use the information sought in a meaningful manner to assist in the identification of defects related to motor vehicle safety.

The NTDA believes that NHTSA’s decision to provide some regulatory relief to manufacturers of fewer than 500 vehicles per year, while laudable, still does not meet the above requirement concerning burdens. Many specialized motor vehicle **and** trailer manufacturers and dealers are small businesses by Small Business Administration (SBA) standards. These companies have none of the same resources as the large, multi-national corporations for whom the law was really intended. The compliance costs of this regulation could be devastating to a business that may only have 15 or 20 employees and almost non-existent profit margins. Lastly, the data provided by a small manufacturer will be statistically insignificant to the goals of this regulation.

The NTDA requests that NHTSA amend the definition of large volume manufacturers as discussed above.

Sincerely,



Kelly Stephens
Florida Utility Trailers, Inc.
President, National Trailer Dealers Association